IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 4209 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

PRESIDENT,AMRELI MUNICIPALITY

Versus

STATE OF GUJARAT

Appearance:

MR JAYANT PATEL for Petitioners

MR ST MEHTA APP for Respondent No. 1

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 03/03/2000

ORAL JUDGEMENT

Heard the learned counsel for the petitioners and the State.

2. This application under Section 482 of the Code of Criminal Procedure prays to quash the complaint in Criminal Case No.2064 of 1992 pending before the learned Chief Judicial Magistrate, Amreli. The learned advocate for the applicants submits that the original complaint is based on the order dated 28.11.1991 by the Gujarat Secondary Education Tribunal in Application No.237 of 1991. It is further submitted that the applicants have challenged the said order by way of Special Civil Application No.1511 of 1991 wherein an injunction against operation of the aforesaid order is granted and is operating. In view of these facts, it is submitted that the criminal proceedings pursuant to Criminal Case No.2064 of 1992 should not be proceeded further. The learned advocate contends that only in case of the petition of the applicants being dismissed, the criminal proceedings can be proceeded further subject to the rights, contentions and defences open to the applicants. The learned Addl. Public Prosecutor has no objection if the present application is disposed with appropriate orders.

3. In the facts of this case, it would be appropriate to grant the necessary limited relief to the effect that, till final disposal of Special Civil Application No.1511 of 1991, the proceedings in Criminal Case No.2064 of 1992 pending before the learned Chief Judicial Magistrate, Amreli should not be proceeded with. Thereafter, it will be the duty of the present petitioners to intimate the criminal court about the outcome of their petition and make appropriate application for further proceedings as well as for other reliefs, if any, that may be claimed by them. It is clarified that it would be open for the petitioners to raise all the contentions and take all the defences that are available to them including the objection regarding absence of sanction in the criminal case and file appropriate applications therefor. With this order, the present Misc. Criminal Application is partly allowed. Rule is made absolute to that extent with no order as to costs.

Sd/-

(KMG Thilake)

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